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BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman

BOB STUMP
Commissioner

SANDRA D. KENNEDY
Commissioner

PAUL NEWMAN
Commissioner

BRENDA BURNS
Commissioner

Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF THE APPLICATION OF)
LITCHFIELD PARK SERVICE COMPANY)
FOR A WAIVER UNDER A.A.C. R14-2-806)
OR, IN THE ALTERNATIVE, NOTICE OF)
INTENT TO REORGANIZE UNDER A.A.C.)
R14-2-803.)

DOCKET NOS. W-01427A-11-0419
AND SW-01428A-11-0420

DECISION NO. 73350

ORDER

Open Meeting
August 9, 2012
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

A. Introduction

1. On November 22, 2011, Litchfield Park Service Company ("LPSCO" or "Company") filed applications ("Applications") with the Arizona Corporation Commission ("Commission") for both its water and wastewater operations, requesting an order from the Commission that either (i) declares that the affiliated interests rules (Arizona Administrative Code ("A.A.C.") R14-2-801, et seq.) do not apply to a transaction (the purchase of all outstanding shares of Entrada Del Oro Sewer Company, Inc. ("EDO") by Liberty Water Company ("Liberty Water")) or (ii) grants a waiver under A.A.C. R14-2-806 with respect to that transaction. Alternatively, LPSCO requests that the Commission approve the transaction under A.A.C. R14-2-803, a notice of intent to reorganize an existing public utility holding company.

2. On December 22, 2011, Docket Nos. W-01427A-11-0419 and SW-01428A-11-0420 were consolidated by the Hearing Division.

B. Background

3. Litchfield Park Service Company ("LPSCO or Company"), a wholly-owned subsidiary of Liberty Water Company ("Liberty Water"), is a public service corporation engaged in providing water and wastewater utility services in Maricopa County, Arizona. Its principal place of business is 12725 W. Indian School Road, Suite D-101, Avondale, Arizona.

4. At the present time, LPSCO provides water service to approximately 16,500 water customers and 18,500 wastewater customers. LPSCO's current rates and charges were authorized in Decision No. 72026 (December 10, 2010).

5. Entrada Del Oro Sewer Company, Inc. ("EDO") at the present time provides wastewater services to approximately 324 wastewater customers in Pinal County, Arizona. EDO's current rates and charges were authorized in Decision No. 68306 (November 14, 2005).

6. LPSCO's application presents the following description of the transaction and its relationship with EDO:

On August 26, 2008, Liberty Water entered into a Stock Purchase Agreement with Sellers for the purchase of all outstanding shares of EDO's common stock (the "Stock Purchase Agreement"). A copy of the Stock Purchase Agreement will be provided subject to an appropriate confidentiality agreement. Liberty Water paid \$635,000 cash to Sellers for EDO's common stock. The stock shares are escrowed and will be transferred once the Commission grants a waiver or, in the alternative, approves the Transaction. Liberty Water has also paid growth premiums totaling \$279,000. To date the purchase price is \$914,000. That amount will increase based on customer growth expected through 2018.

Also on August 26, 2008, Liberty Water and EDO entered into an Agreement for Labor Services (the "Management Agreement"). A copy of the Management Agreement will be provided subject to an appropriate confidentiality agreement. By way of the Management Agreement, Liberty Water maintains and operates EDO's wastewater treatment plant.

The Transaction does not involve the sale, lease, assignment, encumbrance or transfer or conveyance of any of EDO's utility plant, assets, revenue or property. The only change to EDO as a result of the Transaction is that EDO, which elected S-Corporation tax status, will revert back to a C-Corporation, as EDO will become a subsidiary of Liberty Water which is a

1 C-Corporation.¹ Nevertheless, the Transaction will be transparent to EDO
2 customers, as well as to LPSCO customers

3 The Transaction between Liberty Water and EDO will not alter the utility
4 service provided by LPSCO. LPSCO has provided and will continue to
5 provide safe and reliable utility service to customers in its service territory.
6 Moreover, LPSCO has operated and will continue to operate as a public
7 service corporation and be subject to the Commission's authority and
8 jurisdiction.

9 7. LPSCO has asked for a waiver to the above transaction. Staff recommends that if
10 the Commission is inclined to grant a waiver, it should only apply to this transaction.

11 **C. Explanation of Affiliate Interest Rules**

12 8. The Rules cover the Commission's review of transactions between public utilities
13 and affiliates. In general, A.A.C. R14-2-804 states that, in order to transact business with an
14 affiliate, the utility must agree to provide the Commission with access to the books and records of
15 the affiliate to investigate transactions between the two. The utility is also obligated to maintain
16 necessary accounting records regarding transactions with each affiliate. The Rules were created so
17 that the Commission could be made aware of transactions and other occurrences at the holding
18 company level that may affect the regulated utility's operations or financial well-being--even if
19 indirectly.

20 9. In the past, when dealing with certain other utilities with corporate parents, Staff
21 has sometimes experienced difficulties obtaining information at the parent level that Staff believed
22 was necessary for a complete analysis. Staff notes this concern now in hopes of avoiding any such
23 delays or lack of cooperation in this and any future proceedings the Commission may have with
24 the Company. Although Staff has not experienced problems obtaining requested information from
25 LPSCO in the past.

26 10. Staff concludes that the Commission or other parties might have questions about the
27 proposed transaction; therefore, it is not in the public interest to either declare that the Rules do not
28 apply or to grant a waiver.

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¹ EDO's 2008, 2009, and 2010 Utility Reports on file with the Commission incorrectly reflect that EDO is a C-Corporation.

D. Company's Alternative if its Waiver is denied

11. LPSCO requests that, in the event that its request for a waiver is denied, the Commission approve the transaction under A.A.C. R14-2-803 ("Rule 803"), a notice of intent to reorganize an existing public utility holding company. LPSCO provided in its Application all eleven components required in a notice of intent to reorganize as a public utility company pursuant to Rule 803.

12. The reorganization involves only the purchase and sale of common stock. The transaction does not involve the sale, lease, assignment, encumbrance or transfer or conveyance of any of EDO's utility plant, assets, revenue or property. The only change to EDO as a result of the transaction is that EDO, which elected S-Corporation tax status, will revert back to a C-Corporation. The transaction will also not alter the capital structure of LPSCO.

13. Staff recommends that this transaction, and only this transaction, should be approved under Rule 803, and agrees with the Company that a hearing is not necessary. Staff further concludes that this transaction should benefit rate payers, by permanently unifying the owner and operator of EDO; provide EDO with access to greater managerial, financial and technical expertise; and provide EDO with access to the equity capital markets.

14. Staff Recommendations:

Denial of the request for a waiver.

Approval of the reorganization subject to the following conditions:

- a. LPSCO fully cooperates with any Staff inquiries or requests for information and/or documents regarding any transaction that Staff determines might have some detrimental effect, direct or indirect, on the Company's operational or financial health.
- b. EDO is ordered to refrain from seeking an acquisition adjustment due to this transaction in any future rate case.
- c. EDO is ordered to maintain its quality of service, including, but not limited to ensuring that the number of service complaints, the response time to service complaints and service interruptions should not increase as a result of the reorganization.
- d. EDO and LPSCO are directed to maintain an equity position that represents no less than 35 percent of its total capitalization (aggregate of common equity, long-term debt and short-term debt).

15. Staff's recommendations are reasonable, and should be adopted.

CONCLUSIONS OF LAW

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2 1. The Company is a public water service corporation within the meaning of Article
3 XV of the Arizona Constitution and A.R.S. 40-250 and 40-252 and the Commission's Affiliated
4 Interest Rules, A.A.C R14-2-801-806.

5 2. The Commission has jurisdiction over the Company and the subject matter of the
6 application.

7 3. The public interest requires that the Commission apply the Affiliated Interests
8 Rules in a manner that will maximize protection to ratepayers.

9 4. Approval of the transaction proposed in the Application would serve the public
10 interest only if conditions are imposed to provide adequate protection to ratepayers.

11 5. The public interest requires that the transaction proposed in the Application be
12 approved subject to the conditions recommended by Staff.

13 6. The transaction proposed in the Application, with the conditions set forth and
14 discussed herein, is reasonable and in the public interest and should be approved.

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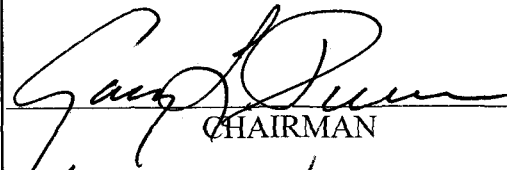
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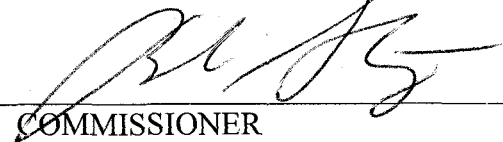
IT IS THEREFORE ORDERED that Litchfield Park Service Company's request for a waiver from Commission review of the transaction proposed in the Application pursuant to A.A.C. R14-2-806, is hereby denied.

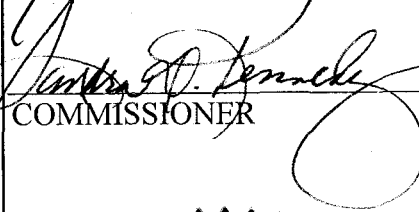
IT IS FURTHER ORDERED that the transaction proposed in the Application and Notice is hereby approved, as a reorganization of a holding company pursuant to A.A.C. R14-2-803, subject to the conditions set forth in Findings of Facts Nos. 13 and 14.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

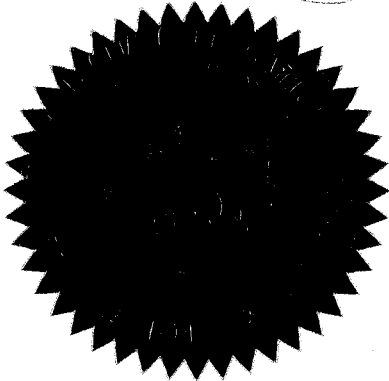

CHAIRMAN


COMMISSIONER


COMMISSIONER


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COMMISSIONER



IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 21st day of August, 2012.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:JMM:sms\RMM

1 SERVICE LIST FOR: Litchfield Park Service Company
2 DOCKET NO. W-01427A-11-0419 ET AL

3 Greg Sorensen
4 Vice President & General Manager
5 Liberty Utilities
6 12725 W. Indian School Road
7 Suite D-101
8 Avondale, Arizona 85392

9 Jay Shapiro
10 Fennemore Craig
11 3003 North Central Avenue, Ste. 2600
12 Phoenix, Arizona 85012-2913

13 Mr. Steven M. Olea
14 Director, Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 Ms. Janice M. Alward
19 Chief Counsel, Legal Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007